

Episode 34

Hazrat Muawiya and Historical Facts

I have previously written my experiences regarding my respected father's (may Allah's mercy be upon him) balanced position and my own mode of action towards *Jamat-e-Islami* and Maulana Maududi (may Allah's mercy be upon him). Around 1969 when his new book "*Khilafat Aur Mulookiyat*" (Caliphate and Kingship) was published, a barrage of objections was raised against it from all directions. However, I had not got the opportunity to personally read it. In the meanwhile, when my elder brother respected Muhammad Zaiki Kaifi Sahab (may Allah's mercy be upon him) came to Karachi during those days, he mentioned to me that he had read the book and that he had been restless since reading it, because this book raised criticism about Hazrat Usman, Hazrat Muawiya and some other Companions (may Allah be pleased with them all) in such a manner as reaches the bounds of demeaning and insulting them. The late *Bhai Jaan* would often meet various individuals of *Jamaat-e-Islami*, rather even Malana Maududi himself, but despite his disagreements he had never been so severe about them; this time, however, he was much perturbed that their conduct regarding the Companions was now exceeding beyond limits. He also advised me that there was a dire need to write an academic critique of this book. He had also brought the book "*Khilafat Aur Mulookiyat*" with him and passed it to me for reading. I read it the same night and found his concerns valid, as it featured such denunciation of some of the Companions, especially Hazrat Muawiya (may Allah be pleased with him), that the heart was left extremely distressed. The very next day, I began studying the reference books based on which those accusations were levelled. When following the references cited in that book, it was found that in some places the references were wrong, while at other places minor points were blown out of proportion. In order to clarify the reality of those accusations, I then wrote an essay which was published in *Al-Balagh* as a series of monthly parts. Only a few parts of that series had been published when Maulana Maududi's (may Allah's mercy be upon him) special aide respected Malik Ghulam Ali Sahab (may Allah's mercy be upon him) began publishing acrimonious replies to it in Maulana Maududi's magazine "*Tarjumaan ul-Quran*". Even after my series of articles was

completed, essays in rebuttal to my articles and in defence of Maulana Maududi continued to be published in *Tarjumaan ul-Quran* for several months.

By nature, I prefer remaining aloof from debates and argumentations, so initially my heart was unwilling to respond to their replies. However, several friends pointed out that respected Malik Sahab's essay had engendered some new misunderstandings which should be responded to at least one time. Instead of protracting this debate any further, I finally decided to review respected Malik Sahab's essay in a single edition of *Al-Balagh*. To this end, a special edition of *Al-Balagh* (Dhul Hijjah 1390H) was published especially for this critique. It was clarified in that edition that this would be my last writing on this topic and that I would not reply to any more responses to this. Scholars could compare both essays and decide for themselves. Afterwards a collection of both my essays was published in the form of the book "*Hazrat Muawiya Aur Tareekhi Haqiq*" (Hazrat Muawiya and Historical Facts), and innumerable people of insight and understanding wrote letters to me informing that this book had removed several thorns of doubt and suspicion from otheir hearts. Some non-partisan members of *Jamat-e-Islami* also expressed their happiness at it. Since the late *Bhai Jaan* was the main motivator for this entire essay, he would diligently read each and every word of this discussion. On publication of this edition of *Al-Balagh*, he expressed his special happiness and shared encouraging words.

Later, respected Malik Sahab replied to this book as well and his response was published as "*Khilafat o Mulookiat Par Tabsaron Ka Jaiza*" (An Analysis of Critiques of the Book *Khilafat o Mulookiat*). I had already clarified that this would be my last writing on this topic, so instead of dragging this debate any further I left the decision to the readers.

However, after quite some time another individual wrote a reply to this book and sent that reply to me, which was published titled "*Hazrat Muawiya Aur Tareekhi Riwayaat*" (Hazrat Muawiya and Historical Narrations).

This was a time when the late Zulfiqar Ali Bhutto Sahab's People's Party was gaining tsunami-like political momentum over the country and the Socialist Movement was at its peak in the country. Coincidentally, some scholars also supported Socialism, considering these slogans as being in

favour of the poor and thinking that opposing it would portray a wrong impression about Islam. On the other hand, senior scholars, including my respected father (may Allah's mercy be upon him), were of the opinion that Socialism was an early form of the same Communism which unleashed unfettered injustices and cruelties upon the Muslims of Russia and East Turkistan and obliterated all religious symbols. For this reason, instead of following the slogans of the times, we should elucidate the economic system of Islam and demand its implementation, and oppose both Socialist as well as Capitalist economic systems.

In this environment, when this difference of opinion among the scholars came to light, one day the prominent leader of *Majlis Tahaffuz Khatm-e-Nubuwwat* Hazrat Maulana Muhammad Ali Jalandhari Sahab (may Allah's mercy be upon him) called me to his office, which was located in Maulvi Musafirkhana area in those days. When I presented myself, he spoke about this matter at length, the gist of which was: "We had sided with Nationalist circles to gain independence from the British, and even went to jail together with them. These Nationalist individuals supported Socialist notions as well. It appeared from their words that their primary grievance was against the *Zamindari Jagirdari* system which unleashed flagrant injustices against poor peasants." He also narrated several heart-rending examples of this and remarked: "One cannot turn a blind eye to these realities. The scholars should ponder over their problems and provide solutions in light of the Shariah. In order to end the environment of disagreements among the scholars regarding Socialism as well, I feel that scholars from both sides of the argument should form a committee to investigate those problems, and to jointly find solutions from the Shariah for those poor peasants. In this manner, instead of merely opposing Socialism, an alternative solution can be presented before the public." He also said: "Please convey this message from me to your respected father, and request him to form this committee. I will request the same from Hazrat Maulana Sayyid Muhammad Yusuf Binnori Sahab (may Allah's mercy be upon him) as well."

This heartfelt proposition of his made complete sense, so when I mentioned it to my respected father, he welcomed it. To ponder over the *Fiqhi* issues collectively, our respected father had already formed "*Majlis Tahqeeq Masail Hazira*" (Committee for Research on Contemporary *Fiqhi* Issues) together with Hazrat Binnori (may his secret be sanctified). Consequently, he instructed

to organize a meeting of this Committee to investigate the relevant *Fiqhi* issues, and to also invite Hazrat Maulana Mufti Mahmood Sahab in this meeting. However, since our respected father (may Allah's mercy be upon him) was ill during this time, he instructed us two brothers (i.e. Hazrat Maulana Mufti Muhammad Rafi Sahab (may his shade be extended) and myself) to participate in this Committee on his behalf, and to receive counsels from him by reporting the minutes of those meetings to him. Accordingly, Hazrat Binnori (may his secret be sanctified) convened this gathering in his Madrasa in which he also invited Hazrat Maulana Mufti Mahmood Sahab as well as Hazrat Maulana Mufti Rasheed Ahmad Sahab, and also included Hazrat Maulana Muhammad Idrees Meerathi Sahab (may Allah's mercy be upon them all).

This gathering continued for several days. Us two brothers would arrive in Hazrat Binnori's (may Allah's mercy be upon him) Madrasa every morning, where *Fiqhi* issues would be discussed the entire day. This was my first time having in-depth meetings with Hazrat Mufti Mahmood Sahab (may Allah's mercy be upon him), in which on the one hand we got a glimpse of his *Fiqhi* stature, and on the other hand received a first-hand experience of his captivating style of speech and pleasant demeanour. Though the political environment of those times was such that accusations were being hurled against him of supporting Socialism by forming political partnerships with Socialist elements, and he was aware that we also had academic doubts regarding his actions, this neither led us to treat him with any less veneration nor did this have any effect on his delightful demeanour and pleasant conduct. He would very kindly and lovingly participate in *Fiqhi* discussions wholeheartedly, and the questions and answers which are part and parcel of such discussions also continued in a pleasant environment. However, the debates with our teacher Hazrat Maulana Mufti Rasheed Ahmad Sahab (may Allah's mercy be upon him) led to some amount of harshness. Nevertheless, all agreed on a final draft, which I am reproducing below for the record:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله وكفى، وسلام على عباده الذين اصطفى

Introduction

It is an undeniable reality that Islam is a complete way of life. It comprises its own unique general principles as well as detailed laws related to beliefs, acts of worship, politics, economy, social life and moral characteristics, basically every part of man's life, which are distinct from and superior to every other religion, nation and way of life. It therefore does not tolerate, at any stage, that its teachings should be confused with or get mixed up with any other religion or way of life, either in word or meaning. In this respect, Islam's system of economy is also completely distinct from all other systems, be it Capitalism, Socialism or Communism.

With this background, according to this Committee the question of whether Capitalism or Socialism is in line with Islamic teachings is not worth delving into, rather the Committee considers it a given that Islamic opposes both systems. If a certain principle of either of these systems happens to be in accordance with Islamic teachings, then neither can that system be considered to be in line with Islamic teachings on account of this nor can that system be declared to be the one proposed by Islam.

Rather the point under discussion is: Numerous economic difficulties have arisen in the current times. What is the solution for these difficulties in the light of Islam's system of economy? And how is this solution distinct from both Capitalism and Socialism? In this respect, the following principles should be kept in mind:

Principles and Methodology

1. The Islamic system of economy, without any alterations, shall be presented in a modern compilation.
2. While drafting this new compilation, practical means of implementing it shall also be provided as offer an effective and practical solution to contemporary economic difficulties. This shall be done without altering or modifying any Islamic commandment in the least, and without taking in any influence from any other system of economy.
3. One cannot turn a blind eye from the fact that ninety percent of the population is suffering from poverty and other economic difficulties, and that it is necessary to find solutions to this situation.

To solve these, all four Madhhdhabs shall be referred to while taking the rulings of the Hanafi Madhhdhab as the main source, and in times of need rulings from whichever Madhhdhab offers a solution shall be taken, provided:

4. No ruling shall be taken other than the four Madhhdhabs.
5. It should be clear that whatever solution this Committee proposes for any issue, that solution shall be considered ready for implementation and valid for issuing a *Fatwa* according to it when a true Islamic Government, all of whose laws are in accordance with the Islamic Shariah, is established.
6. A book shall be compiled on this topic with a detailed introduction at its beginning which shall describe the economic life of the *Quroon al-Oola* (first few generations of Muslims) and the remaining book shall be compiled according to the order of modern economics.
7. This entire work shall be undertaken at a purely religious level. In no way shall this work be related to or attributed to any political party.
8. After the completion of this work, it shall be presented before scholars of all schools of thought, after which it shall be published as the Islamic System of Economics.

Issues Related to Agricultural Land

1. If an Islamic Government gives a *Mawaat* land¹ to someone to rehabilitate and he rehabilitates it either through his own efforts or by hiring someone as an *Ajeer Khaas* (employee) for this, then he becomes the owner of that land. (لأن من أحيا أرضاً ميتة فهي له).
2. Regarding *Mawaat* lands which previous governments gave to people but have still not been rehabilitated, if three years have not elapsed since giving it to those people then the government shall wait for three years to complete from the date of giving that land for rehabilitation, and if three years have already elapsed since giving that land then those lands shall be taken back from them and given to those people who do not possess any land.

¹ Translator: *Mawaat* land: A wasteland that has no owner

(لما في الدر المختار: ومن حَجَّر أرضاً ثم أهملها ثلاث سنين رفعت إلا غيره وقبلها هو أحق بها وإن لم يملكها ... إلخ) (شامي ص ٢٧٨ ج ٥)

3. The agricultural *Mawaat* lands which the Government of Pakistan or the British gave to anyone to rehabilitate, after which those who took the lands neither rehabilitated it themselves nor hired workers or employees to rehabilitate it, rather rented it out to farmers to rehabilitate on the basis of a *Muzaara'ah*¹ contract, then an Islamic Government which is run by honest and trustworthy leaders has the right to declare all such *Mawaat* lands as being under the ownership of the farmers who rehabilitated it in the *Muzaara'ah* contract, and for those farmers who passed away, to declare it as being under the ownership of their inheritors.

(لأن المعطي له لم يملك الأرض بمجرد التحجير فلم تنعقد المزارعة وصار المزارع هو المالك لأنه هو الذي أحيا الأرض. وأما إذن الإمام فليس بشرط عند الصاحبين، وأما عند أبي حنيفة فالإذن اللاحق يقوم مقام السابق، فإذا أجازت الحكومة ذلك وقع الملك للمزارع باتفاقهم)

4. Regarding the agricultural *Mawaat* land which has been leased out to someone for a specified duration before being rehabilitated, so that the lessee rehabilitates it as well as cultivates it and pays the annual rent to the one who told him to rehabilitate it (i.e. the lessor), when the lessee makes such a land cultivable, from that time he shall become the owner of the land and he shall not owe any rent to anyone. Rather whatever rent the lessor has already collected from him shall have to be returned.

(لما ذكرنا أن المأذون له لا يملك الأرض قبل الإحياء فلم تنعقد الإجارة لعدم الملك وصارت الأرض لمن أحياها)

5. If someone is commissioned to rehabilitate a *Mawaat* land and his salary is also specified for this task as an *Ajeer Mushtarak*, then this rehabilitation shall be considered from the person hired and he shall be considered the owner of the land after rehabilitation, and whatever salary he took from the one who commissioned him for this task shall be returned.

¹ Translator: *Muzaara'ah*: Share-cropping

(لما في الدر المختار: استأجره ليصيده أو يحتطب له، فإن وقت لذلك وقتا جاز وإلا لا. ولو لم يوقت وعين الحطب فسد. وفي رد

المختار --- قوله جاز لأنه أجير واحد وشرطه بيان الوقت. قوله: وإلا لا --- أي الصيد والحطب للعامل. شاي ص ٥٩ ج ٥)

6. If any Muslim government usurped the cultivable land of any Muslim or *Dhimmi*¹ and thereafter gave it to anyone else as an estate then such lands shall be returned to their owners.
(لأنه غضب ولا إستيلاء لمسلم علي مسلم)
7. Regarding cultivable estates which were owned by someone whereafter the British gave them away to Muslims either as a political bribe or in return for treachery against the nation, there are three cases:
 - a) If they had given away those lands by usurping them from Muslim owners then the Islamic Government shall take it back from the *Jagirdars* (feudal lords) and return it to their original owners. In case the original owners have passed away, the Islamic Government shall give it to their inheritors. In case the original owners or their inheritors are not known, the Government shall take over those lands and distribute it among those citizens of Pakistan who do not possess any land.
 - b) If those cultivable lands originally belonged to non-Muslims and were usurped from them and given to *Jagirdars* either as bribe or in return for treachery to the nation, then such lands shall be taken back from the *Jagirdars* as *Maal al-Fay* and given to those people who do not possess any land.
 - c) If those lands were barren (*Mawaat*) then the laws of rehabilitating *Mawaat* lands shall apply, which have been described above.
8. An Islamic Government has the right to allot more than half (e.g. two-thirds) of the produce to the *Muzaar'i*².
9. In case of rental contract (*Ijaarah*) of agricultural land also, an Islamic Government has the right to fix an appropriate limit to the rent so that the renter earns a suitable return on his effort.

¹ Translator: *Dhimmi*: A non-Muslim living in an Islamic state

² Translator: *Muzaari'*: The farmer who rents an agricultural land on a *Muzaara'ah* (share-cropping) contract

10. There is a difference of opinion among scholars regarding the validity of a *Muzaara'ah* contract. According to Imam Abu Hanifah, this contract is *Faasid*. *Sahibayn*¹ consider *Muzaara'ah* a valid contract. The majority of the Ummah has acted upon this opinion of validity. However, if a true Islamic Government feels that the relationship between a landlord and farmer is generally not being established upon correct Islamic principles, free from *Faasid* contract conditions and injustices from landlords, then in times of need it has the right to issue an order for lands to be cultivated on *Ijaarah* (rental) contracts instead of *Muzaara'ah*.
11. Can any limits be imposed upon the ownership of lands and factories? Or any restrictions? Is *Milkiyyah Bil 'Iwad* (ownership in exchange) permissible in any case? These issues are still under contemplation.
12. In the future, only those people shall be allowed to rehabilitate *Mawaat* lands who do not possess any lands.

Issues Related to *Rahn*²

A land pledged as a *Rahn* in which the *Murtahin* has put a condition that he shall be entitled to benefit from it or if he is benefitting from it because of "*Al-Ma'roof Ka al'Mashroot*" (a norm is as good as a condition), then such a *Rahn* is *Faasid*. Therefore, such a land shall be forthwith returned to the *Raahin* and for the time in which the *Murtahin* occupied the land, an *Ujrah al-Mithl* (market value of the rent of such a land) shall be due upon the *Murtahin*. This *Ujrah al-Mithl* shall be deducted from the debt, and if the *Ujrah al-Mithl* is found to be more than the total debt, then the remaining amount shall be returned to the *Raahin*.

¹ Translator: *Sahibayn*: The two most prominent students of Imam Abu Hanifah, Imam Abu Yusuf and Imam Muhammad Bin Hasan ash-Shaybani.

² Translator: *Rahn*: A contract in which a debtor provides a collateral to the lender as security for the loan.

Raahin: The person providing the collateral

Murtahin: The person taking the collateral

Marhoon: The collateral item

(لأن ذلك ليس برهن، وإنما هو اجارة فاسدة فيجب أجر المثل لما في رد المختار: قال في التتارخانية ما نصه: ولو استقرض دراهم وسلم حماره إلا المقرض يستعمله إلا شهرين حتى يوفيه دينه أو داره يسكنها فهو بمنزلة الاجارة الفاسدة، إن استعمله فعليه أجر مثله ولا يكون رهنا --- الأخ)

13. If the *Murtahin* gave the *Marhoon* land to the *Raahin* on the basis of a *Muzaara'ah* contract, then this *Rahn* contract becomes invalid. Therefore the entire produce of the land shall belong to the *Raahin* and whatever portion of the produce he gave to the *Murtahin* shall be deducted from the loan. However, if the seeds were provided by the *Murtahin* then the *Raahin* shall return the same amount of seeds, or the price of the seeds if the *Murtahin* agrees, to the *Murtahin*.

Issues Related to Commercial Transactions

1. All types of interest shall be declared legally prohibited and banks shall operate on the principles of *Shirkah Mudarabah*, and whatever interest banks, insurance companies and other private, government or semi-government financial institutions have collected since the time Pakistan was founded until now shall be distributed among the poor.
2. All forms of gambling and betting, including insurance etc., shall be declared illegal and all earnings through these means shall be confiscated and distributed among the poor.
3. Business shall be made free and open, i.e. the monopoly of a few individuals over imports and exports shall be abolished.
4. It shall be deemed unlawful for Pakistani capitalists to store their capital in foreign banks and the amounts currently stored shall be somehow transferred back to Pakistan.
5. Import of alcohol and other prohibited items as well as luxury goods shall be deemed illegal.
6. Hoarding of any consumer goods shall be deemed a punishable crime and anyone incriminated in this shall be forced to sell them.

(آخذا بقول أبي يوسف في أن الإحتكار في كل ما أضر للعامة حبسه. الهداية ص ٤٧ ج ٤)

Issues Related to Factories

1. An Islamic Government can fix such salaries for workers in a factory as suitably recompense them for the type of work they perform and also allow them to be financially self-sufficient and to help them grow financially.
2. An Islamic Government shall declare unlawful any collusion of industrialists which is harmful for common good, e.g. cartel, merger, syndicate, and the like.

(لما في الهداية: ولا يجبر القاضي الناس علي قاسم واحد، معناه: لا يجبرهم علي أن يستأجروه، لأنه لا جبر علي العقود، ولأنه لو تعين لتحكم بالزيادة علي أجر مثله، ولا يترك القاسم يشتركون، كيلا تصير الأجرة غالية بتواكلهم، وعند عدم الشركة يتبادر كل منهم إليه خيفة الفوت، فيرخص الأجر. الهداية ص ٤١٥، ومثله في البدائع ص ١٩ ج والعالمگیریة)

It had been decided regarding this manuscript that since it was still a draft, it would be planned to be presented before a larger gathering of scholars for review and would be published after further discussions with them and reaching an agreement from all. Also, that it would not be attributed to any political party. However, what actually happened is that it was immediately published in monthly “*Al-Haq*” in the *Rabee ul-Awwal* 1389H edition and attributed to Jamiat Ulama-e-Islam, an act over which Hazrat Binnori (may his secret be sanctified) expressed his ire in monthly *Bayyinaat’s Jamadi al-Oola* 1389H edition. Due to this, misunderstandings resurfaced between the two sides and this work could not progress further at a communal level. Instead, Hazrat Maulana Muhammad Idrees Sahab Meerathi (may Allah’s mercy be upon him) wrote an erudite essay on the Economic System of Islam which was published in *Bayyinaat* in seven parts. Also, under my respected father’s (may Allah’s mercy be upon him) guidance, I compiled an “Economic Blueprint” which was later verified and concurred by 118 scholars and published as “*Islami Nizam Mein Mu’aashi Islaahaat Kya Hongi?*” (“What Economic Rectifications Would Take Place in an Islamic System of Economy?”). This has also been published in my respected father’s book “*Jawahir ul-Fiqh*”.

The above-reproduced manuscript was decided not to be published at that time because it was still a draft version and further contemplation was planned for it, and it was therefore possible for changes to be made to it. For this reason, I also had qualms regarding reproducing it here.

However, since it was already published in "*Al-Haqq*", and also because at one stage Hazrat Maulana Muhammad Idrees Sahab's (may Allah's mercy be upon him) above-mentioned essay was misunderstood to be the outcome of that Committee, regarding which, at my request, a clarification was also published in *Bayyinaat*'s edition *Dhul Hijjah* 1433H edition, I did not find it inappropriate to reproduce it here to set the record straight. However, it should be borne in mind that that paper was only a first draft upon which further work was planned. Therefore it would not be correct to declare all the points proposed in that paper as the final decision of that Committee.